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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 26.10.2021

+ **ARB.P. 190/2021**

VIVEK SLARIA

..... Petitioner

Through Mr.Yash Mishra, Ms.Srishti Mishra &
Mr.Pronoy Chatterjee, Advs.

versus

NEERAJ TYAGI

..... Respondent

Through Mr.Abrahm C. Mathews & Mr.Vivek,
Advs.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

JUDGMENT (oral)

1. Present petition has been preferred under Section 11(5) of the Arbitration and Conciliation Act, 1996 seeking appointment of sole arbitrator to adjudicate the disputes between the parties with regard to the Partnership Deed dated 30.11.2013.

2. As per the version of petitioner, petitioner and respondent, who are said to be husband and wife, were equal partners of M/s Greenlatte, a partnership firm arising out of a partnership deed dated 30.11.2013, whereunder both the partners have an equal share in the net profit, loss and

all other liabilities of the firm.

3. It is submitted by the petitioner that due to extreme incompatibilities between petitioner and respondent, respondent has refused to take responsibility of her 50% share in the liabilities of the firm. The present dispute between the parties is with regard to non-payment of statutory (GST and TDS) and third-party dues of the partnership firm which add upto Rs.71,36,951/- and remain unpaid since January 2020.

4. As per version of petitioner, respondent misused partnership fund in connivance with Mr.Sinkul Tyagi, her relative, by siphoning off Rs.24 lacs from partnership fund account to her personal account thereby violating clause 6 of the Partnership Deed. As a precaution, petitioner sent a letter to Branch Manager, HDFC Bank on 22.01.2020 requesting them to stop all debits from partnership account and to only permit debit after mutual consent of both petitioner and respondent.

5. It is further submitted that petitioner time and again sought cooperation in paying GST, TDS and third-party dues of the firm which respondent refused to do. Moreover, respondent also refused to pay her 50% share of the abovesaid dues. Further submitted that due to the non-cooperation of respondent, the petitioner is suffering everyday and as a

result, despite having sufficient balance in the partnership bank account amounting to Rs.1,15,80,102/-, has been unable to discharge liabilities of the firm. Petitioner situation further worsened having received tax notice dated 22.12.2020 for cancellation of GST registration by the Assistant Commissioner of State Tax. Also, petitioner served notice to the respondent for payment of outstanding financial governmental liabilities on 12.10.2020 which the respondent denied and ultimately, GST registration was suspended on account of non-filing of GST returns for a continuous period of six months.

6. It is pleaded on behalf of the petitioner that vide notice dated 23.10.2021, petitioner invoked arbitration under clause 18 of the Partnership Deed and appointed Mr.Harsh Jha, Advocate sole arbitrator and invited respondent to give confirmation to the same. In reply thereof, respondent vide its communication dated 27.10.2020 did not give her consent for the appointment of Mr.Harsh Jha, Advocate being the sole arbitrator.

7. During the course of hearing, learned counsel for the parties prayed this Court to appoint sole arbitrator to adjudicate the disputes between the parties.

8. Accordingly, **Mr. Justice (Retd) V.K. Jain (Mobile: 9650116555)** is

appointed sole Arbitrator to adjudicate the dispute between the parties.

9. The arbitration shall be conducted under the Delhi International Arbitration Centre (DIAC).

10. The fee of the Arbitrator shall be in accordance with the Schedule of Fees prescribed under the Delhi International Arbitration Centre (DIAC) (Administrative Cost and Arbitrators Fees) Rules, 2018. The learned Arbitrator shall ensure compliance of Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

11. With aforesaid directions, the present petition is accordingly disposed of.

12. A copy of this order be sent to the learned Arbitrator as well as Delhi International Arbitration Centre (DIAC) for information.

(SURESH KUMAR KAIT)
JUDGE

OCTOBER 26, 2021
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